

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 2013-01

CASE NO. 15-001

TESORO SAVAGE, LLC

PETITION FOR INTERVENTION
OF COLUMBIA WATERFRONT LLC

VANCOUVER ENERGY DISTRIBUTION
TERMINAL

Pursuant to RCW 34.05.443, RCW 80.50.090, WAC 463-30-091, and Prehearing Order Commencing Agency Adjudication and Setting Intervention Petition Deadline: February 27, 2015, Case No. 15-001, Columbia Waterfront LLC (“Columbia Waterfront”) submits this Petition for Intervention.

I. IDENTIFICATION OF PETITIONER

Columbia Waterfront is a Washington limited liability company. Columbia Waterfront is developing The Waterfront, a 32 acre mixed-use, waterfront community in Vancouver, Washington. Columbia Waterfront requests intervention in this proceeding to protect its interests in The Waterfront development threatened by the Tesoro-Savage proposal.

Columbia Waterfront’s name and mailing address is as follows:

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Tualatin, Oregon 97062-8352

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Petitioner Columbia Waterfront is represented by:

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III. COLUMBIA WATERFRONT'S INTERESTS

Columbia Waterfront is concerned about direct, indirect, and cumulative impacts in this matter. Columbia Waterfront is the developer of a new waterfront community, The Waterfront, located on 32 acres between downtown Vancouver and the Columbia River (the “Property”). Columbia Waterfront owns 28 acres and leases 3.26 acres from the Port of Vancouver. The Property is located about two miles east of the Vancouver Energy Distribution Center and oil terminal and immediately adjacent to the BNSF main line and the Port of Vancouver spur rail line that will be used by oil trains delivering crude oil to the Tesoro-Savage terminal. *See* Exhibit A. At The Waterfront, 11 of the community’s 22 city blocks and numerous residential structures will be within 100 feet of the BNSF main line and the Port of Vancouver spur line on which the oil trains are proposed to pass. *See* Exhibit B.

The Waterfront will redevelop a brownfields area – the former Boise-Cascade mill site – into a mixed-use riverfront development reconnecting downtown Vancouver to the Columbia River. Columbia Waterfront acquired the Property in 2008 and has worked closely with the City of Vancouver to create the master plan for development, which was approved by the City Council in December 2009. Ordinance M-3936.

1 The Waterfront project consists of up to 3,300 residential units, more than 800,000 square
2 feet of office space, 250,000 square feet of retail space, and 160 hotel rooms. The community is
3 designed to be accessible for pedestrians and bicycles and provides convenient access to
4 downtown Vancouver and mass transit. *See Exhibit C.*

5 The Waterfront will also include a new public, seven acre Waterfront Park. Columbia
6 Waterfront has committed to providing initial park improvements including a waterfront trail
7 linking to and extending the existing Columbia River Renaissance Trail. The Waterfront Park
8 will have a public pier, fishing dock, and riverfront viewpoints, as well as public spaces for
9 farmers markets, concerts, and other public gatherings. Initial construction of the Waterfront
10 Park is scheduled to begin in the summer or fall of 2015.

11 Development of facilities to serve The Waterfront has been proceeding for several years.
12 The Vancouver Waterfront Access Project, a \$45 million public-private investment to provide
13 street and sidewalk access to The Waterfront from the City's existing downtown core, was
14 completed in early 2014. Initial construction of deep utilities, including water, sewer and
15 stormwater piping, took place in September of 2014, along with road improvements to construct
16 the main leg of Columbia Way and extensions of Grant and Ester Streets. A second phase of the
17 roadwork has also begun, with completion of the roads expected by June 2015. In September
18 2014, the Port of Vancouver began work to install deep underground utilities, including water,
19 sewer and stormwater piping, needed for development of The Waterfront. Development of The
20 Waterfront is continuing in 2015.

21 Columbia Waterfront has previously expressed its interest in the proposed oil terminal
22 through its participation in this EFSEC proceeding, including the submittal of extensive SEPA

1 scoping comments and testimony at the land use consistency hearing on May 28, 2014.
2 Columbia Waterfront's prior participation addressed the issues listed in this Petition.

3 **IV. IMPAIRMENT OF COLUMBIA WATERFRONT'S INTERESTS**

4 Columbia Waterfront's interests in the Property and The Waterfront development are
5 impaired by the direct and indirect impacts of the Tesoro-Savage oil terminal proposal in a
6 number of ways. Located approximately two miles east of the proposed oil terminal facility, the
7 Property is bounded on the north by the BNSF and Port of Vancouver railroad lines that will be
8 used to deliver oil by rail to the Tesoro-Savage facility. The Property is bounded to the south by
9 the Columbia River, which will be used by ships taking oil from the facility for delivery to
10 unknown oil refineries. Accordingly, Columbia Waterfront's interests would be impaired by
11 terminal construction and operations, oil trains, and marine vessel operations.

12 Columbia Waterfront's property and economic interests in the Property and The
13 Waterfront development would be impaired if EFSEC denies this Petition for Intervention,
14 because approval of the proposed oil terminal without Columbia Waterfront's participation could
15 result in substantial direct and indirect impacts to The Waterfront development. These impacts
16 include actual impacts on the physical environment of the Property, the health and safety of
17 businesses and residents on the Property, and impacts affecting the economic value and
18 marketability of The Waterfront development, as well as socio-economic impacts on downtown
19 Vancouver.

20 **A. Impairment from Terminal Construction and Operations**

21 The Property would be impaired by visual and auditory impacts of terminal operations
22 and construction. The Waterfront Park is an amenity critical to the successful development of
23 The Waterfront and the revitalization of downtown Vancouver. Terminal dock construction

1 activities, as well as vessel movements are expected to be visible from the Waterfront Park,
2 particularly from the planned public pier and fishing dock. Sound from terminal construction and
3 operations will also travel unabated along the Columbia River from the oil terminal to the
4 Waterfront Park and shoreline trails.

5 While the Property is located upstream from the oil terminal, an oil spill from the
6 terminal, whether caused by equipment failure, human error, or a natural disaster such as an
7 earthquake or flood, would also negatively impact Columbia Waterfront's interest in the Property. A
8 spill would impact recreational fishing from the public fishing dock planned for the Waterfront
9 Park, while increased vessel traffic in the Columbia River associated with cleanup efforts would
10 further disturb users' enjoyment of the Waterfront Park. A large-scale oil spill would even
11 threaten the overall marketability of riverfront development in the vicinity of the spill, including
12 The Waterfront.

13 **B. Impairment from Oil Trains**

14 The Property lies immediately adjacent to the BNSF main line and Port of Vancouver
15 spur line that will deliver oil by rail to the Tesoro-Savage facility. *See* Exhibit B. Columbia
16 Waterfront's interests are therefore impaired by all aspects of the proposed oil train operations.
17 These include, but are not limited to, health and safety, visual impacts, noise, and odor. The oil
18 trains also pose a direct risk of leaks and spills onto the Property. The risk of an oil train
19 derailment and catastrophic explosion at the juncture of the BNSF main line and Port of
20 Vancouver spur line, immediately adjacent to the Property, is of particular concern to Columbia
21 Waterfront. In the event of an oil train accident, first responder access to the Property could be
22 impaired, as the two railroad underpasses to the Property on the north may be cut off by a
23 derailed train, and the south edge of the Property is the Columbia River. Further, such a

1 catastrophic event need not actually occur to impair Columbia Waterfront's economic interests.
2 Actual and perceived risk of such a disaster scenario is sufficient to affect the desirability and
3 salability of property within The Waterfront. All of these impacts potentially affect the economic
4 value of the Property, and Columbia Waterfront's interest in the successful development of the
5 Property into The Waterfront community.

6 **C. Impairment from Marine Vessel Traffic**

7 As noted above, the Waterfront Park is a critical amenity of The Waterfront. Impacts on
8 the Waterfront Park are thus likely to impact the overall development and marketability of the
9 Property and its development. The near-constant presence of large marine vessels loading large
10 quantities of crude oil just downstream from the park may impair user enjoyment of park
11 facilities, including the public pier, fishing dock, and riverfront viewpoints. Further, an oil spill
12 from one of the vessels could be catastrophic. An oil spill response could require river access to
13 be restricted, limiting the appeal of the public pier. Impacts on fishery resources would impair
14 the use and enjoyment of the fishing dock. And such an event could have devastating, long-term
15 impacts on the desirability and marketability of riverfront property along the Columbia,
16 including The Waterfront.

17 **D. Additional interests and issues**

18 Absent preparation of environmental impact documents, it is not possible to compile a
19 comprehensive list of Columbia Waterfront's potential issues of concern. A draft environmental
20 impact statement ("DEIS") has not yet been completed as of the date of this filing. Therefore,
21 Columbia Waterfront specifically requests the right to add or delete issues following completion
22 of the DEIS for this application. Columbia Waterfront submits the following non-exhaustive list
23 of issues related to its interests:

1. Whether the oil terminal project and the EFSEC process are consistent with all applicable laws and regulations.
2. Whether the project's potential impacts to the environment, including direct, indirect, and cumulative impacts, are adequately evaluated and addressed.
3. Whether adverse impacts to nearby land uses are adequately evaluated and addressed.
4. Whether all public health and safety concerns and risks, including but not limited to fire and explosion risk, spill risks, noise, and air emissions are adequately evaluated and addressed.
5. Whether the project has adequately planned for responding to a natural disaster or catastrophic accident, including but not limited to earthquakes of any magnitude, floods, windstorms, tank fires, oil spills, train derailments, and other disaster scenarios.
6. Whether adverse impacts to recreational opportunities, including but not limited to the Waterfront Park and Columbia River Renaissance Trail, are adequately evaluated and addressed.
7. Any and all issues involving economic impacts and benefits of the project, and any issues involving the economic viability of the oil terminal project.
8. Columbia Waterfront also has an interest in all procedural matters that may arise during the adjudicatory process.
9. Columbia Waterfront reserves the right to address any issue identified by any other participant in this proceeding.

V. SCOPE OF INTERVENTION REQUESTED

Columbia Waterfront requests to be heard in these proceedings and to be afforded the right to participate in these proceedings to the full extent authorized by EFSEC rules. Columbia

1 Waterfront's request includes, but is not limited to, the right to have notice and appear at any and
2 all hearings or procedures, to produce evidence and cross-examine witnesses, to be heard
3 through counsel by written and oral argument, to be served as a party with copies of all pleadings
4 and other materials filed with EFSEC, and to participate in any other way as may be appropriate.

5 **VI. COLUMBIA WATERFRONT'S INTERVENTION WILL NOT CAUSE**
6 **PREJUDICE OR DISRUPTION**

7 Columbia Waterfront's intervention is timely and its participation will not prejudice any
8 party to these proceedings. Columbia Waterfront's participation will not unduly delay these
9 proceedings nor disrupt the Council's ability to conduct these proceedings in an orderly fashion.
10 Columbia Waterfront will coordinate its participation with other intervenors.

11 **VII. CONCLUSION**

12 For the foregoing reasons, the Council should grant the request by Columbia Waterfront,
13 LLC to intervene with regard to the potential impacts of the proposed Tesoro-Savage proposal,
14 both direct and indirect, on the Property and The Waterfront development, including but not
15 limited to impacts from terminal construction and operations, oil trains, and marine vessels.

16 Dated this 27th day of February, 2015.

17 MARTEN LAW PLLC

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19 By: Linda R. Larson

20 Linda R. Larson, WSBA No. 9171

21 Attorneys for Columbia Waterfront LLC

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VERIFICATION

STATE OF OREGON)

County of Washington)

I, Barry Cain, being first duly sworn on oath, depose and say:

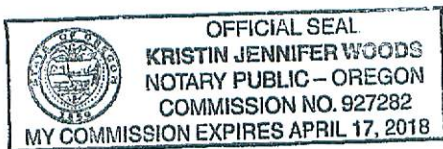
I am an agent of the Petitioner above and am authorized to make this Verification on
Petitioner's behalf. I have reviewed the foregoing Petition for Intervention, know the contents
thereof, and believe the same to be true.

Signed at Thalatin, Oregon on February 26, 2015.



Barry Cain
Columbia Waterfront LLC

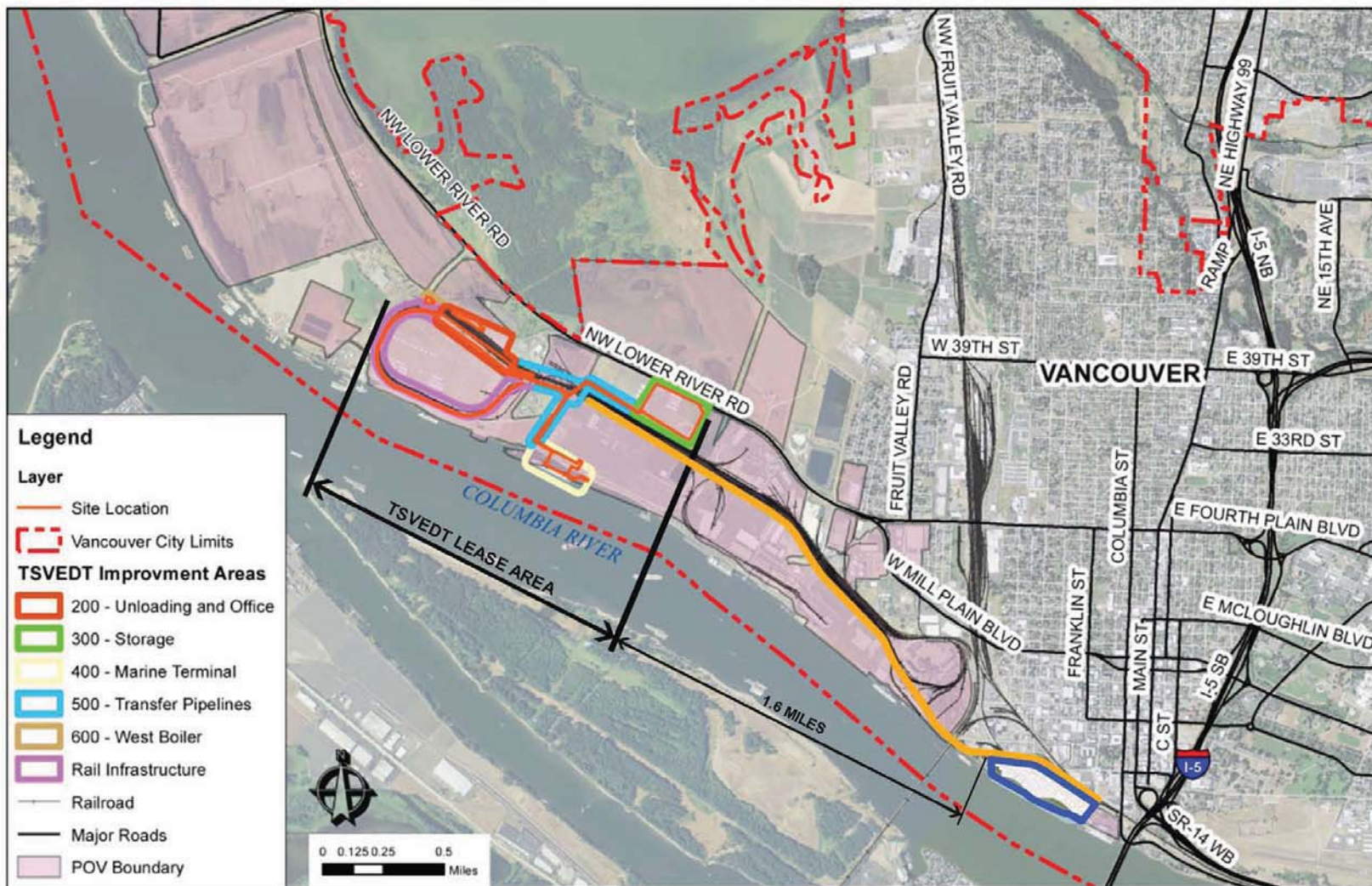
SUBSCRIBED AND SWORN TO before me this 26th day of February, 2015.



Kristin Jennifer Woods
Signature of Notary

Kristin Jennifer Woods
Printed Name of Notary

Notary public in and for the State of Oregon
Residing at Portland, OR
My appointment expires 927282



Port of Vancouver
Railroad

Vancouver
Waterfront
Development



Figure 2.1-1. General Vicinity Map

EXHIBIT A

Image from Tesoro Savage
Energy Distribution Terminal
Application No. 2013-01



VANCOUVER
WATERFRONT
DEVELOPMENT

- PORT OF VANCOUVER
RAILROAD
- BNSF
RAILROAD

EXHIBIT B
NOT TO SCALE



EXHIBIT C

Visual Representation of The Waterfront

1 **CERTIFICATE OF FILING**

2 I hereby certify that on February 27, 2015, I filed this PETITION FOR INTERVENTION OF
3 COLUMBIA WATERFRONT LLC BY electronic mail to the following electronic filing address:

4 EFSEC@utc.wa.gov;

5 and sent a true and correct copy by first class U.S. mail, postage prepaid, to the following
6 mailing address:

7 Energy Facility Site Evaluation Council
8 1300 S. Evergreen Park Drive SW
9 Olympia WA 98504-3172.

10 Dated: February 27, 2015



11 Linda R. Larson
12 Attorney for Proposed-Intervenor
13 Columbia Waterfront LLC
14
15

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on February 27, 2015 I served by authorized method of service
18 pursuant to WAC 463-30-120(3) a true and correct copy of this PETITION FOR INTERVENTION OF
19 COLUMBIA WATERFRONT LLC upon all parties of record as in this proceeding via first class U.S.
20 mail, postage prepaid, at the addresses listed below:

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